

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUSTIN GUY, individually and on
behalf of those similarly situated,

Plaintiff,

v.

Case No. 2:20-cv-12734-MAG-EAS
HON. MARK A. GOLDSMITH

ABSOPURE WATER COMPANY, LLC
a domestic limited liability company,

Defendant.

**DEFENDANT'S STATEMENT PURSUANT TO THE COURT'S ORDERS
[ECF NOS.]**

Pursuant to Court's Orders ECF 134 and 135, Defendant hereby provides the
following statements concerning its trial plans

I. WITNESS LIST

Witness	Topic(s)	Time
Patrick Byrne	<ul style="list-style-type: none">- Background and history of Defendant- Overview of Defendant's business and operation Defendants'- Overview of Plaintiffs'/employees' duties- Operation of the Defendant's handheld inventory system- Defendant's operation as a retail establishment	4 hours

Kyle Glovak	- Defendant's employee payment methods	
Art Amelotte	- Job duties of Sales and Service Specialists and Specialist Trainees - Hours worked - General management practices	2.5 hours
Four or more of the following managers (depending on Plaintiffs' testimony): Alex Mecks Mike McWhinnie John Kilmer Brian Roon Joseph Heikkuri Tony Freese	- Individual practices of the managers that supervise particular Plaintiffs - Testimony on hours worked and vehicles driven for particular Plaintiffs	1 hour each
Jim Dragston	Defendant's inventory management and product ordering systems	3 hours
Current Sales and Service Specialists: Ron Civone Andrew Mumford Bob Sturdy	Job duties and hours worked of Sales and Service Specialists	1 hour each
Each Plaintiff not called in Plaintiffs' case in chief	Hours worked and small vehicle exception	1 hour each
Additional witnesses to rebut further disclosures by Plaintiffss		

II. PRETRIAL MOTIONS

Defendant at this time plans to file the following pre-trial motions:

1. Motion to exclude testimony of proposed expert witness Martin K.

Williams

2. Motions for partial summary judgment on:

- a. That the small vehicle exception to the Motor Vehicle Act exemption does not apply to certain plaintiffs at certain times
- b. That there is no material dispute of fact that certain fact issues with respect to the Motor Carrier Act exemption, including that Defendant is the “shipper” for purposes of intent to ship goods in interstate commerce
- c. That the retail/services establishment exemption applies to Plaintiffs

Defendant reserves the right to file other motions, particularly based on any additional late responses by Plaintiffs’ may provide to Defendant’s discovery requests.

Dated: August 28, 2023

Respectfully submitted,

s/ Ronald G. Acho

Ronald G. Acho

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and

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LOCAL RULE CERTIFICATION

I, Michael O. Cummings, certify that this document complies with Local Rule 5.1(a), including: double-spaced (except for quoted materials and footnotes); at least one- inch margins on the top, sides, and bottom; consecutive page numbering; and type size of all text and footnotes that is no smaller than 10-1/2 characters per inch (for non-proportional fonts) or 14 point (for proportional fonts). I also certify that it is the appropriate length. Local Rule 7.1(d)(3).

Dated: August 28, 2023

/s/ Michael O. Cummings

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CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification to all parties of record. I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: None.

Dated: August 28, 2023

/s/ Michael O. Cummings

Michael O. Cummings

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